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Richard J. Hertz

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EXAMINER

TUCKER, WESLEY J

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/737,371

Applicant(s)

HERTZ ET AL.

Examiner

Wes Tucker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendments and Arguments*

1. Applicant's response to the last Office Action, filed February 20, 2004, has been entered and made of record.
2. Applicant has canceled Claims 13, 14 and 20. Claims 1 and 15 were amended. Claims 1-12 and 15-19 are pending.
3. Applicant's arguments have been fully considered but are not persuasive for at least the following reasons.
4. Applicant has amended claims 1 and 15 to contain the limitation of: at least one programmable software agent in communication with the at least one image server, the at least one software agent automatically and repeatedly comparing programmed, user-specified criteria with the available digital image metadata to evaluate and select a subset of digital images provided by the image server. The applied rejection of the combination of U.S. Patent 6,571,271 to Savitzky and U.S. Patent 6,571,246 to Anderson contains these limitations.

Savitzky discloses at least one programmable software agent in communication with the at least one image server (creation of HTML pages, column 2, lines 63-65) and automatically evaluating and selecting a subset of digital images (column 1, lines 51-56). Here it is understood that there must be a software agent used to display the images on an HTML page. Savitzky does not disclose the at least one software agent

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automatically and repeatedly comparing programmed user-specified criteria with the available digital image metadata to evaluate and select a subset of the digital images provided by the image server for distribution to the user.

Anderson discloses a software agent that selects pictures according to specified data (abstract and column 1, lines 52-68 and column 2, lines 1-10). A server then uploads images and categorizes them according to their tags or metadata to be stored accordingly in a database. The images can then be distributed accordingly such as creating web pages. The executable files contain instructions from users concerning the data corresponding to images to be uploaded and distributed (column 4, lines 45-55). It is understood that the comparison of programmed user-specified data with digital image metadata occurs repeatedly, as it must happen each time a request is made and for each comparison. It is also understood that the digital image metadata is inherently available. It must be available in order to make a comparison. The language of the amended claims is still met by the combination of references in the rejection. Therefore the rejection of the claims is maintained.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 10 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,571,271 to Savitzky et al. in view of U.S. Patent 6,571,246 to Anderson et al.

6. With regard to claim 1, Savitzky discloses a system for distributing digital images to a user. Savitzky discloses the system comprising an image capture device (Fig.1, element 116) for creating digital images wherein the digital images include metadata containing information about the digital images (column1, lines 45-51). Here metadata is interpreted as "camera ID, date of capture, and the like."

Savitzky further discloses at least one image server (Fig.1, 100) in communication with the image capture device, the image server receiving and storing digital images transmitted from the image capture device (column 4, lines 1-2).

Savitzky further discloses at least one programmable software agent in communication with the at least one image server (creation of HTML pages, column 2, lines 63-65) and automatically evaluating and selecting a subset of digital images (column 1, lines 51-56). Here it is understood that there must be a software agent used to display the images on an HTML page. Savitzky does not disclose the at least one software agent automatically and repeatedly comparing programmed user-specified criteria with the available digital image metadata to evaluate and select a subset of the digital images provided by the image server for distribution to the user. Anderson discloses a software agent that selects pictures according to specified data (abstract). A server then uploads images and categorizes them according to their tags or metadata

to be stored accordingly in a database. This comparison is performed repeatedly as the data must be compared each time images are requested. The digital image metadata must be inherently available in order for a comparison to be made. The images can then be distributed accordingly such as creating web pages. The executable files contain instructions from users concerning the data corresponding to images to be uploaded and distributed (column 4, lines 45-55). Anderson teaches that this automated method provides less chance of confusion or mistake as well as an increase in the speed of performance (abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use the automated method of Anderson to compare metadata with user specifications in the image distribution of Savitzky in order to provide less chance of mistake or confusion as well as an increase in the speed of performance.

7. With regard to claim 2, Savitzky discloses the system wherein the at least one software agent is operable to monitor the at least one image server for digital images (column 1, lines 50-55). Here the image server recognizes new images and creates or modifies HTML pages. The server does this automatically and must require a "software agent."

8. With regard to claim 3, Savitzky discloses the system wherein the at least one image server is operable to push digital images to the at least one software agent

(column 2 lines 60-65). Here the server presents the images as HTML pages with the help of the software agent.

9. With regard to claim 4, Savitzky discloses the system further including at least one display device for displaying the digital images selected by the at least one software agent (column 1, lines 50-55). Here the images are chosen by a software agent and displayed in the form of HTML pages. The display device would be some form of computer monitor.

10. With regard to claim 5, Savitzky discloses the system wherein the at least one software agent is associated with the at least one display device (column 2, lines 63-65). Here the HTML pages are associated with the web page displayed on some type of digital screen or monitor.

11. With regard to claim 6, Savitzky discloses the system further including a central processor in communication with the at least one display device (column 2 lines 60-65). Here it is understood that the central processor will be a computer and the display device will be that computer's monitor.

12. With regard to claim 7, Savitzky discloses the system wherein the at least one software agent is associated with the central processor (column 2 lines 60-65). It is inherent that a software agent must be associated with a central processor.

13. With regard to claim 8, Savitzky discloses the system wherein the central processor includes a plurality of programmable software agents corresponding to each of the display devices (column 2 lines 60-65). A number of different programmable software agents must be used to make HTML pages available to be seen on several different display devices.

14. With regard to claim 10, Savitzky discloses the system wherein the at least one software agent and the at least one image server are in connection via a broadband network (column 4, lines 1-4). Here it is understood that the Internet contains broadband networks. It is inherent that two devices in connection through the Internet would be in connection through a broadband network.

15. With regard to claim 15, Savitzky discloses a method for distributing digital images to a user. Savitzky discloses transmitting digital images from an image capture device (Fig.1, 116) to at least one image server (column 1, lines 45-50), the digital images including metadata containing information about the digital images (column1, lines 45-51). Here metadata is interpreted as "camera ID, date of capture, and the like."

Savitzky further discloses receiving and storing the digital images at the at least one image server (Fig. 1, element 100);

Savitzky discloses automatically selecting a subset of the digital images for distribution to the user using at least one programmable software agent in



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communication with the at least one image server (creation of HTML pages, column 1, lines 47-50; column 2 lines 63-65). Savitzky does not disclose automatically and repeatedly comparing programmed, user-specified criteria with the available digital image metadata in order to evaluate and select a subset of images. Anderson discloses a software agent that selects pictures according to specified data (abstract). A server then uploads images and categorizes them according to their tags or metadata to be stored accordingly in a database. This comparison is performed repeatedly as the data must be compared each time images are requested. The digital image metadata must be inherently available in order for a comparison to be made. The images can then be distributed accordingly such as creating web pages. The executable files contain instructions from users concerning the data corresponding to images to be uploaded and distributed (column 4, lines 45-55). Anderson teaches that this automated method provides less chance of confusion or mistake as well as an increase in the speed of performance (abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use the automated method of Anderson to compare metadata with user specifications in the image distribution of Savitzky in order to provide less chance of mistake or confusion as well as an increase in the speed of performance.

16. With regard to claim 16, Savitzky discloses the method further including displaying the digital images selected by the at least one software agent (column 2,

lines 61-64). Here clients are requesting certain pictures through a network interface, which must have a software agent to select the images to be displayed.

17. With regard to claim 17, Savitzky discloses the method further including creating the digital images using the image capture device (column 1, lines 43-45). It is inherent that the image capture device is used to create images.

18. With regard to claim 18, Savitzky discloses the method further including monitoring the at least one image server for digital images using the at least one software agent (column 2, lines 51-55).

19. With regard to claim 19, Savitzky discloses the method further including pushing digital images from the at least one image server to the at least one software agent (column 2, lines 61-64).

20. Claims 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U.S. Patent 6,571,271 to Savitzky et al. and U.S. Patent 6,571,246 to Anderson et al. in view of U.S. Patent No. 6,337,712 to Shiota.

21. With regard to claim 9, Savitzky and Anderson disclose the system according to claim 4. They do not specify the use of the system wherein the at least one display device is connected to a home network. Shiota discloses a device similar to the

claimed invention and also allows for a connection with a general household office (Fig. 3, 11). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a connection with a home network for the reason of using the device to transfer and display images from home.

22. With regard to claim 11, Savitzky and Anderson discloses the system according to claim 1. Savitzky and Anderson do not allow for a wireless communication link between the image capture device and the image server. Shiota discloses a device very similar to the claimed invention and also allows for a wireless communication link (Fig.3, 5) between the server (Fig.3, 6) and the image capture device (Fig.3, 1). Shiota teaches that a wireless link is useful because "a user of a digital camera can transfer images, via this system while the user is away from home, thereby enabling continual use of the digital camera." See abstract last three lines. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a wireless communication link to facilitate transfer of digital images while the user is away from home.

23. With regard to claim 12, Savitzky and Anderson disclose the system according to claim 1. Savitzky and Anderson do not allow for communication between the image capture device and image server via a synchronization cradle. Shiota discloses a device very similar to the claimed invention and also allows for a synchronization cradle or docking station (4). The docking station is another way to transfer images from the

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camera to the server. Using a cradle, image transfer can be done without removing a memory card or storage device from the camera. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a synchronization cradle or docking station as taught by Shiota in the device of Savitzky to transfer images from camera to server quickly and easily.

### ***Conclusion***

24. Applicant's amendment necessitated the new grounds of rejection presented in the Office Action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


**Contact Information**

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wes Tucker whose telephone number is 703-305-6700. The examiner can normally be reached on 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on (703)308-6604. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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4-20-2004

  
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